



**INSTITUTE  
of MUSEUM  
and LIBRARY  
SERVICES**

January 30, 2003

Jan Walsh, State Librarian  
Washington State Library  
Office of the Secretary of State, Library Division  
PO Box 42460  
Olympia, WA 98504

Dear Ms. Walsh:

The attached document is in response to your request for clarification of one of the elements of the maintenance of effort requirements for the State LSTA program discussed at the recent IMLS training session.

MOE represents the States ongoing commitment and investment in the SLAAs library program and consists of only state dollars that are expended by the State Library Administrative Agency for library programs that are consistent with the purposes of the Library Services and Technology Act. See Section 223(c)(2). Dollars appropriated to other state agencies, ex. Departments of Education or Corrections for library services in their areas of responsibility can not be considered as part of the reported expenditures to meet the MOE requirement for this program.

I have also included a new summary of information regarding the state grant program which outlines the major aspects of eligibility for funding.

I hope that this information provides the clarification that you need. If you have further questions, please contact me.

Regards,

  
Jane Heiser, Associate Deputy Director  
State Programs, IMLS

*A Federal agency  
serving the public  
by strengthening  
museums & libraries*

Washington, D.C.

## **IMLS Grants to States Program**

In 1956, Congress passed the Library Services Act (LSA) to stimulate use of State and local funds for library improvement throughout the nation. P.L. 84-597. The Act was "designed to assist in remedying a serious deficiency in the educational program of the United States" — the lack of adequate library services. The LSA encouraged States to implement comprehensive programs to meet the library services needs of their residents by establishing "State Library Administrative Agencies" with authority under State law to administer State-wide library development programs. Fifty-nine state agencies now ensure that library services reach individuals throughout the United States and its territories.

Because of its "impressive results," the Library Services legislation has been continually reauthorized by Congress since its inception. Most recently, Congress enacted the Library Services and Technology Act (LSTA) of 1996, Subchapter II of the Museum and Library Services Act, 20 U.S.C. § 9101 *et seq.*, which recognizes the opportunities afforded by new technologies in promoting access to learning and information resources in all types of libraries for individuals of all ages. 20 U.S.C. § 9121. The LSTA incorporates the ongoing Grants to States program. 20 U.S.C. § 9141.

Under the Grants to States program, the LSTA authorizes the Director of the Institute for Museum and Library Services ("IMLS") to provide funds to 59 State Library Administrative Agencies ("SLAA"). 20 U.S.C. § 9133(a). The statute defines an SLAA as "the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State," 20 U.S.C. § 9122(5). Each State must certify that its designated SLAA has the fiscal and legal authority and capacity to administer all aspects of the LSTA. 20 U.S.C. § 9122(6). In addition, each State must identify the State's library needs, describe activities to be supported with the assistance of Federal funds, and assure IMLS that the State will establish policies, priorities, criteria and procedures to implement the LSTA Grants to States program. *Id.*

To ensure that the State provides comprehensive library services to its residents, each State is responsible for leveraging local funds and matching the Federal funds it receives. In addition, each State must sustain a "Maintenance of Effort" level of State spending on libraries and library programs to ensure that Federal funds do not replace State funds in supporting State-based programs. 20 U.S.C. § 9133(c).

To be eligible to receive funds under the Grants to States program, each State's SLAA must submit to the IMLS a "State plan" detailing certain goals, assurances, and procedures for a five year period. 20 U.S.C. § 9134(a). The plan must identify the State's library needs and set forth activities to be taken toward meeting the identified needs supported with the assistance of LSTA funds. 20 U.S.C. § 9122(6).

Each State plan must:

- (1) establish goals and specify priorities for the State consistent with the purposes of the LSTA;

- (2) describe activities that are consistent with the goals and priorities established under the LSTA that the SLAA will carry out using its grant;
- (3) describe the procedures that the SLAA will use to carry out such activities;
- (4) describe the methodology that the SLAA will use to evaluate the success of such activities in achieving the goals and meeting the priorities described in the plan;
- (5) describe the procedures that the SLAA will use to involve libraries and library users throughout the State in policy decisions regarding implementation of the LSTA; and
- (6) provide assurances satisfactory to the Director of IMLS that the SLAA will make such reports, in such form and containing such information, as the Director of IMLS may reasonably require to carry out the LSTA and to determine the extent to which funds provided under the LSTA have been effective in carrying out the purposes of the statute. 20 U.S.C. § 9134(b).

IMLS regulations additionally provide that each State plan must include "an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding." 45 CFR § 1183.11(c).

Every five year State plan that, upon review, is determined to meet the criteria set forth above is approved by the IMLS. 20 U.S.C. § 9134(e). In the event that a SLAA submits an unsatisfactory five year plan, the SLAA has the opportunity to revise the plan, and the IMLS has the obligation to provide the SLAA with technical assistance to aid the SLAA in meeting the eligibility requirements as well as the opportunity for a hearing. 20 U.S.C. § 9134(a).

Once an SLAA has fulfilled the eligibility requirements, the LSTA provides that IMLS allot funds to the SLAA through a population based formula set forth in 20 U.S.C. § 9134(b). A minimum of 96 percent of Federal State Grant funds must be spent, either directly by the SLAA or through subgrants or cooperative agreements, for:

- (1) (A) establishing or enhancing electronic linkages among or between libraries;
- (B) electronically linking libraries with educational, social, or information services;
- (C) assisting libraries in accessing information through electronic networks;
- (D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

- (2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of [U.S Code] title 42) applicable to a family of the size involved.

20 U.S.C. § 9141(a). Determinations as to how a State's LSTA funds are apportioned among these spending categories and how the goals of the five year plan are met are left to the discretion of the SLAA, based upon the specific needs of the individual State. 20 U.S.C. § 9141(b). The remaining four percent of appropriated funds may be spent on administrative expenses. 20 U.S.C. § 9132(a).

SLAAs are provided some latitude in determining how to implement their five year plans and how to provide services to the libraries and library users in their States. Specifically, a SLAA may either provide such services directly or through sub-grants or cooperative agreements. 20 U.S.C. § 9141(a). In instances in which a SLAA provides direct services, the provision of such services must conform with the terms of the SLAA's five year plan. Compliance with the LSTA statutory provisions, the terms of the five year plan, and other Federal laws and regulations applicable to grantees is monitored by the IMLS through annual reports submitted by each SLAA, routine contact between IMLS staff and SLAA staff, and periodic site visits conducted by IMLS staff.

SLAAs may also use competitive subgrants to distribute their LSTA funds and to meet the purposes set forth in the LSTA and their five year plans. The form and substance of such subgrant programs is left to the discretion of the SLAAs, provided that the programs conform to the purposes and terms of the five year plan and the law of its State. 45 CFR § 1183.37(a). Competitive subgrant programs are monitored by the IMLS vis-à-vis the SLAAs through the same channels as direct services provided by the SLAAs. Subgrants awarded by SLAAs under LSTA carry the same legal and regulatory conditions as the grants to the SLAAs themselves, and under IMLS regulations, the SLAAs are responsible for ensuring that such conditions and others imposed by Federal law on grantees are included in all subgrants. 45 CFR § 1183.37. SLAAs are also charged with monitoring compliance by subgrantees with such conditions. 45 CFR § 1183.40.

In the event that a grantee or subgrantee is found materially to fail to comply with any term of an award, whether stated in a Federal statute or regulation, in an assurance submitted by that grantee or subgrantee, in a five year State plan, in an award notice, or elsewhere, the IMLS may withhold payment pending correction of the noncompliance, disallow costs associated with the noncompliant activity, wholly or partially suspend or terminate the current award, withhold further awards, or seek other remedies that are legally available. 45 CFR § 1183.43.

Each SLAA is required to independently evaluate activities funded by IMLS prior to the end of the five year plan and provide a report of its findings to IMLS's Director. 20 U.S.C. § 9134(c).

## **Statutory Matching and Maintenance of Effort Requirements**

### **INTRODUCTION**

What follows describes the difference between the federal matching requirements and federal "maintenance of effort" requirements for the LSTA State programs. Because of general confusion about these two concepts, agency clarification is necessary.

#### **Federal Matching Requirements.**

A matching requirement is one under which a grantee is required to contribute a portion of total project costs. When a Federal agency enters into an assistance agreement with an eligible recipient, the agency approves an entire project or program. When "matching" provisions apply, part of the costs of the project or program will be borne by the Federal government. The additional contribution, which is needed to supply full support for the anticipated costs of the project or program, is the local or non-Federal matching share. Once the agency makes a grant, the assistance recipient is committed to providing the non-Federal share. Matching funds, as with the Federal assistance funds themselves, may be used only for authorized grant purposes.

The policies behind matching requirements are twofold. Federal matching requirements ensure that Federal funds are leveraging non-Federal contributions. They "assure local interest and involvement through financial participation." 59 Comp. Gen. 668, 669 (1980). Federal matching requirements also serve to hold down Federal costs.

IMLS's authorizing legislation includes a Federal matching requirement in its provisions pertaining to the States. State Library Administrative Agencies are required to "match" their Federal LSTA program grants, as follows:

#### **Federal share**

##### **(1) In general**

The Federal share shall be 66 percent.

##### **(2) Non-Federal share**

The non-Federal share of payment shall be provided from non-Federal, State, or local sources.

20 U.S.C. Section 9133(b). Under the legislation, an LSTA State Library Administrative Agency must contribute 34% of the total LSTA program funding per year from non-Federal resources. The non-Federal "match" may include contributions from a State, from local sources, or from other non-Federal entities, including, corporations and foundations. The "match," therefore, is not limited to State funds.

#### **Maintenance of Effort.**

Independent of the matching requirement, IMLS's authorizing legislation requires a State "maintenance of effort" ("MOE"). Under a maintenance of effort provision, a State is required, as a condition of eligibility for Federal funding, to maintain its financial contribution to a program at not less than the amount of its contribution for some prior time period. A maintenance of effort formula ensures that Federal assistance results in an increased level of library-related activity and that a State does not simply replace State dollars with Federal dollars over time. In the case of LSTA, the maintenance of effort demonstrates the States' commitment to library programs.

IMLS's legislation provides as follows:

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year.

20 U.S.C. Section 9133(c) (1)(A).

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

20 U.S.C. Section 9311(c)(1)(B).

IMLS's maintenance of effort provisions are broader than the agency's matching provisions. The MOE provisions ensure that the States are committed to and supporting library programs in general, and not just the IMLS funded LSTA project or program. Accordingly, maintenance of effort funds include money expended by the State for library programs that are "consistent" with the purposes of LSTA, including:

(1) stimulating excellence and promoting access to learning and information resources in all types of libraries for individuals of all ages;

(2) promoting library services that provide all users access to information through State, regional, national and international electronic networks;

(3) providing linkages among and between libraries; and

(4) promoting targeted library services to persons of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

20 U.S.C. Section 9121. In sum, maintenance of effort must come from the State and may include more than just LSTA program funds. Indeed, it is important to note that, in those years when LSTA funds were not available, States were still supporting programs consistent with the four purposes listed above. For this reason, maintenance of effort has never been zero. As reflected in an IMLS memorandum to COSLA Chief Officers dated June 9, 1997, the maintenance of effort calculation incorporates data from years prior to LSTA. A copy of this memorandum is attached.

#### **Interaction between Matching and Maintenance of Effort Funds.**

As outlined above, the matching and maintenance of effort requirements are distinct and meet different policy needs. However, there may be times when the two overlap. For example, matching funds contributed by a State, may constitute a part of the maintenance of effort provided by a State. Yet, State funds that support any programs consistent with the purposes of LSTA would be included in the maintenance of effort calculation, as well. It is important to isolate and identify the contributions required for each of these statutory provisions.